

### REMARKS

Applicant thanks the Examiner for his careful consideration given to this application. Reconsideration is now respectfully requested in view of the following remarks.

Claims 1-5, 7-12 and 21-23 are pending in this application. Claims 1 and 21 are independent claims. No claims have been amended herein. No claims have been cancelled herein. No claims have been withdrawn herein. Reconsideration and allowance of the present application are respectfully requested.

Applicants note with appreciation the Examiner's indication that Claims 1-5 and 7-12 have been allowed.

Claim 21 stands rejected under 35 U.S.C. §102(b), as being anticipated by Brainerd (U.S. Pat. No. 5,033,563). Claims 22-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Brainerd in view of Fernie (U.S. Pat. No. 6,938,285). Applicant requests reconsideration and withdrawal of these rejections for at least the following reasons.

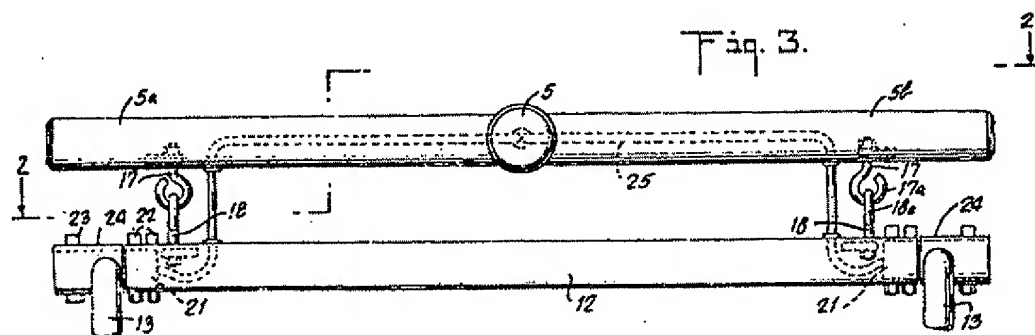
Claim 21 recites, *inter alia*, "[a] device for lifting and lowering a person, comprising: ... an attachment mechanism suspending the elongated member from the floor-standing frame *such that the elongated member is slideably and rotatably coupled to the floor-standing frame and substantially balances the engaged stretcher with respect to the floor-standing frame.*" (*emphasis added*). Brainerd fails to teach, or even suggest for that matter, that the elongated member is *slideably and rotatably* coupled to a floor-standing frame.

Support for such a limitation may be found throughout the specification as originally filed. The following descriptions set forth exemplary reference characters and paragraphs in the specification where an embodiment of the present invention is illustrated or described. The identification of reference characters and paragraph numbers does not constitute a representation that any claim element is limited to the embodiment illustrated at the reference character or described in the referenced portion of the specification.

For example, at paragraph [0047] of the published application, it is explained that a sleeve slides along a center rail, and may rotate freely. ("*The adjustable locator 740 of the*

stretcher frame 700 assembly may attach to the lifting arm or rail via a U bracket 730. In such an embodiment, a central bolt 720 may extend through a hole in the bottom of the U bracket 730 and be tack welded to a sleeve portion, which sleeve may slide freely along the center rail. Thereby, free radial rotation at the lifting point for the stretcher frame 700 assembly may be provided.”). Such a configuration is advantageous because, “if a tilt or unevenness is detected when the stretcher is minimally lifted from its resting position, the stretcher may be lowered back to a resting position, and the adjustable locator may be repositioned toward the tilt sufficiently to remove the tilt or unevenness.” See, e.g., paragraph [0049] of the published subject application.

Brainerd fails to teach, or even suggest for that matter, such a configuration. The Office action argues Brainerd teaches an elongated member 12 and a floor-standing frame 1. See, 6/12/2009 Office action, par. 3. However, member 12 is *not slideably and rotatably* coupled to frame 1. For example, Brainerd teaches “elongated member 12 is supported on the wings 5a, 5b of the T-bar by a pair of articulated connections 19, best seen in FIG. 3.” U.S. Patent 5,033,563, col. II. 18-20. Fig. 3 of Brainerd has been reproduced for the Examiner’s reference.



Brainerd further explicitly teaches:

Each connection 19 includes one screw-eye 17 having a threaded end suitably affixed in one of the wings 5a, 5b of the T-bar and another screw-eye 18 having a threaded end fixed in the elongated member 12. The eyes (17a, 18a) of each pair of screw-eyes 17 and 18 are linked together and *allow swinging movement of the frame 11 either in the longitudinal direction (i.e., the direction of the member 12) or in the transverse direction, (i.e., at right angles to the member 12).* U.S. Patent 5,033,563, col. II. 20-29 (emphasis added).

Accordingly, Barinerd itself teaches its elongated member 12 is *not slideably and rotatably* coupled to frame 1, but is instead merely linked therewith to *allow swinging movement in the longitudinal or transverse directions*. A swinging movement in either a longitudinal and/or transverse direction does not provide a slideable coupling or a rotatable coupling relative to the frame, no less a slideable *and* rotatable coupling relative to the frame – as is explicitly recited in Claim 21.

Accordingly, Applicant respectfully submits Claim 21 patentably distinguishes over the prior art, and requests reconsideration and withdrawal of the 35 U.S.C. §102 rejection thereof. Applicant also requests reconsideration and withdrawal of the rejections of Claims 22 and 23, at least by virtue of these claims' ultimate dependency upon a patentably distinct base Claim 21.

## Conclusion

Wherefore, Applicant believes he has addressed all outstanding grounds raised by the Examiner and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Dated: July 1, 2009

Respectfully submitted,

Electronic signature: /Louis M. Heidelberger/  
Louis M. Heidelberger

Registration No.: 27,899

Jonathan M. Darcy

Registration No.: 44,054

CONNOLLY BOVE LODGE & HUTZ LLP

1007 North Orange Street

P. O. Box 2207

Wilmington, Delaware 19899-2207

(302) 658-9141

(302) 658-5614 (Fax)

Attorneys for Applicant